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5
6 Attorney for plaintiff NANCY NAVA

7
8 **IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11
12 NANCY NAVA,

Plaintiff,

13 v.

14 MIKE SEADLER, individually and in his capacity
as a Santa Clara police officer; CLYDE CHENG,
15 individually and in his capacity as a Santa Clara
police officer; ALEX TORKE, individually and in
16 his capacity as a Santa Clara police officer; A.
WOLF, individually and in his capacity as a Santa
17 Clara police officer; S. MAJOROS, individually
and in his capacity as a Santa Clara police officer;
18 T. SHEARER, individually and in his capacity
as a Santa Clara police officer; J. FANUCCHI,
19 individually and in his capacity as a Santa Clara
police officer; T. NIESEN, individually and in his
20 capacity as a Santa Clara police officer; M. OVER,
individually and in his capacity as a Santa Clara
21 police officer; DAN WINTER, individually and in
his capacity as a Santa Clara police sergeant; A.
22 LANGE, individually and in his capacity as a
Santa Clara police officer; R. CIRAULO,
23 individually and in his capacity as a Santa Clara
police officer; J. MASTILOCK, individually and
24 in his capacity as a Santa Clara police officer; A.
LAYTON, individually and in his capacity as a
25 Santa Clara police officer; J. GREEN, individually
and in his capacity as a Santa Clara police officer;
26 D. RUSH, individually and in his capacity as a
Santa Clara police officer; F. SAUNDERS,

27
28 Complaint for Violation of Civil Rights -
Jury Trial Demanded

FILED

2008 JUN 24 P 2:38

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

C08 03066 PVT

COMPLAINT FOR VIOLATION
OF CIVIL RIGHTS - JURY
TRIAL DEMANDED

Law Offices of Anthony Boskovich 28 North First Street, 6th Floor, San Jose, CA 95113 (408) 286-5150

1 individually and in his capacity as a Santa Clara
 2 police officer; D. MACHADO, individually and
 3 in his capacity as a Santa Clara police officer;
 4 J. OLIVER, individually and in his capacity as a
 5 Santa Clara police officer; B. STERKEI,
 6 individually and in his capacity as a Santa Clara
 7 police officer; JOHN DOE and RICHARD ROE,
 8 individually and in their capacities as Santa Clara
 9 police officers, the true names and exact numbers
 10 of whom are unknown at this time; CITY OF
 11 SANTA CLARA, a municipal corporation,
Defendants.

12 JURISDICTION

13 1. This action arises under Title 42 of the United States Code, section 1983. Jurisdiction is
 14 conferred upon this Court by Title 28 of the United States Code, sections 1331 and 1343. The
 15 unlawful acts and practices occurred in the County of Santa Clara which is within this judicial
 16 district.

17 PARTIES

18 2. Plaintiff, NANCY NAVA, is, and at all times herein mentioned was, a legal citizen of the
 19 United States and a resident of Santa Clara, California.

20 3. Defendant CITY OF SANTA CLARA, hereinafter "CITY", is a public entity duly
 21 organized and existing under the laws of the State of California.

22 4. At all times mentioned herein, defendants MIKE SEADLER, CLYDE CHENG, ALEX
 23 TORKE, A. WOLF, S. MAJOROS, T. SHEARER, J. FANUCCHI, T. NIESEN, M. OVER,

24
 25
 26
 27
 28 Complaint for Violation of Civil Rights -
 Jury Trial Demanded

1 DAN WINTER, A. LANGE, R. CIRAULO, J. MASTILOCK, A. LAYTON, J. GREEN, D.
2 RUSH, F. SAUNDERS, D. MACHADO, J. OLIVER, B. STERKEL, JOHN DOE and
3 RICHARD ROE (hereinafter "OFFICERS"), were employed as police officers for defendant
4 CITY. Defendant officers are sued individually and in their capacity as police officers for the CITY.
5 By engaging in the conduct described here, defendant officers acted under the color of law and in
6 the course and scope of their employment for defendant CITY. By engaging in the conduct
7 described here, defendant officers exceeded the authority vested in them as police officers under the
8 United States Constitution and as employees of the CITY.

9 10 11 **STATEMENT OF FACTS** 12

13 5. On 18 September 2007, plaintiff drove her son and daughter, along with her grandson,
14 to the Bank of America located at 2900 El Camino Real in the City of Santa Clara.

15
16 6. While her son and daughter went into the bank to cash a check, Ms. Nava waited in the
17 car with her grandson.

18
19 7. At approximately 6:15 P.M., Ms. Nava heard a male voice, believed to be MIKE
20 SEADLER, yelling "Hey you in the blue car!" When Ms. Nava, who did not clearly understand
21 that the voice was directed at her, said "Who, me? What did I do?", she was told to put her hands
22 on the steering wheel, and then given meticulous instruction on how to get out of the car, to back
23 up, and then go to the ground.

1 8. There were in excess of 10 OFFICERS, including SEADLER, pointing guns at her, and
2 despite her explanation that she had arthritis, Ms. Nava was taken to the ground on her knees and
3 handcuffed without explanation.

4
5 9. Ms. Nava was seated in the back of a patrol vehicle, and she watched the OFFICERS
6 point their weapons at her young grandson, terrifying him, and then watched them search the
7 vehicle without permission or warrant.

8
9 10. Ms. Nava was forced to remain in the car until 7:36 P.M. without explanation, and then
10 was released, being told that it was a mistake.

11 12 13 14 **DAMAGES**

15
16 11. As a proximate result of defendants' conduct, plaintiff suffered pain and physical injuries.
17 As a further proximate result of defendants' conduct, plaintiff suffered severe emotional and mental
18 distress, fear, terror, anxiety, humiliation, embarrassment, and loss of her sense of security, dignity,
19 and pride as a citizen of the United States.

20
21 12. As a further proximate result of defendants' conduct, plaintiff has incurred medical
22 expenses and lost time from her usual occupation in an amount according to proof.

23
24 13. The conduct of defendant OFFICERS was malicious, wanton, and oppressive. Plaintiff
25 is therefore entitled to award of punitive damages against defendant OFFICERS.

1 14. Plaintiff found it necessary to engage the services of private counsel to vindicate his rights
2 under the law. Plaintiff is therefore entitled to an award of all attorney's fees incurred in relation to
3 this action for violation of his civil rights.

4
5
6 **FIRST CLAIM FOR RELIEF**

7 (42 U.S.C. § 1983)
8 (Against defendants OFFICERS)

9
10 15. Plaintiff realleges and incorporates by reference paragraphs 1 through 14 of this
11 complaint.

12
13 16. In doing the acts complained of, defendants OFFICERS acted under the color of the
14 law to deprive the plaintiff of certain constitutionally protected rights, including, but not limited to:

15 a. The right to be free from unreasonable searches and seizures, as guaranteed by the Fourth
16 and Fourteenth Amendments to the United States Constitution;

17 b. The right to be free from arrest without probable cause, as guaranteed by the Fourth and
18 Fourteenth Amendments to the United States Constitution;

19 c. The right not to be deprived of life or liberty without due process of law, as guaranteed
20 by the Fifth and Fourteenth Amendments to the United States Constitution;

21 d. The right to be free from the use of excessive force by police officers and other
22 government actors, which is guaranteed by the Fourth, Fifth and Fourteenth Amendments to the
23 United States Constitution; and.

24 e. The right to be free from interferences with the zone of privacy, as protected by the Fourth
25 and Ninth Amendments to the United States Constitution.

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27
28 Complaint for Violation of Civil Rights -
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1 17. As a proximate result of defendants' wrongful conduct, plaintiff suffered injuries and
2 damages as set forth.

3
4 **WHEREFORE**, Plaintiff prays for relief as set forth.

5
6
7 **SECOND CLAIM FOR RELIEF**
8 (42 U.S.C. § 1983)
9 (Against Defendant CITY OF SANTA CLARA)

10 18. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 17 of this
11 complaint.

12
13 19. The CITY, by and through its supervisory officials and employees, has been given notice
14 on repeated occasions of a pattern of ongoing constitutional violations and practices by defendant
15 OFFICERS herein and other Santa Clara police officers, consisting of the use of the illegal search,
16 seizure, and arrest of citizens, as well as the use of excessive force against citizens. Despite said
17 notice, defendant CITY has demonstrated deliberate indifference to this pattern and practice of
18 constitutional violations by failing to take necessary, appropriate, or adequate measures to prevent
19 the continued perpetuation of said pattern of conduct by Santa Clara police officers. This lack of
20 an adequate supervisory response by defendant CITY demonstrates the existence of an informal
21 custom or policy which tolerates and promotes the continued illegal search, seizure, and arrest of
22 citizens, as well as the continued use of excessive force against citizens, by Santa Clara police officers.

23
24 20. The acts of defendant police officers alleged herein are the direct and proximate result
25 of the deliberate indifference of defendant CITY and its supervisory officials and employees to
26 violations of the constitutional rights of persons by defendant OFFICERS herein, and other

27 Complaint for Violation of Civil Rights -
28 Jury Trial Demanded

1 members of the Santa Clara Police Department. The plaintiff's injuries were foreseeable and a
2 proximate result of the deliberate indifference of the CITY to the pattern, practices, customs, and
3 policies described above.

4
5 **WHEREFORE**, Plaintiff prays for relief as set forth.

6
7
8 **THIRD CLAIM FOR RELIEF**
9 (Assault and Battery)
10 (Against defendants OFFICERS)

11 21. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 20 of this
12 complaint.

13
14 22. Defendant OFFICERS placed plaintiff in immediate fear for her safety by pointing their
15 guns at her and then forcing her out of her car. Defendant OFFICERS committed assault and
16 battery against plaintiff by pointing their guns at her and then forcing her out of her car without
17 justification without justification.

18
19 23. Defendants' conduct was neither privileged nor justified under statute or common law.

20
21 24. As a proximate result of defendants' wrongful conduct, plaintiff suffered damages as set
22 forth.

23
24 **WHEREFORE**, Plaintiff prays for relief as set forth.

FOURTH CLAIM FOR RELIEF

(False Imprisonment)
(Against defendant OFFICERS)

25. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 24 of this complaint.

26. On or about 27 December 2003, defendant OFFICERS detained plaintiff maliciously and without a warrant or order of commitment of any kind, or any other legal authority of any kind, even though plaintiff had not committed any crime or public offense. Defendant OFFICERS did not have reasonable cause to believe that plaintiff had committed any offense.

27. The conduct of defendant OFFICERS, as set forth herein, was extreme and outrageous and beyond the scope of conduct which should be tolerated by citizens in a democratic and civilized society. However, in order to deliberately injure plaintiff, defendant OFFICERS committed the aforementioned extreme and outrageous acts with the intent to inflict severe injury upon plaintiff, thereby justifying an award of punitive damages against all defendants.

28. As a proximate result, plaintiff suffered damages as set forth.

WHEREFORE, Plaintiff prays for damages as set forth.

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Complaint for Violation of Civil Rights -
Jury Trial Demanded

FIFTH CLAIM FOR RELIEF
 (Intentional Infliction of Emotional Distress)
 (Against defendants OFFICERS)

29. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 28 of this complaint.

30. The conduct of defendant OFFICERS, as set forth herein, was extreme and outrageous and beyond the scope of conduct which should be tolerated by citizens in a democratic and civilized society. However, in order to deliberately injure plaintiff, defendant OFFICERS committed the aforementioned extreme and outrageous acts with the intent to inflict severe mental and emotional distress upon plaintiff.

31. As a proximate result of defendants' willful, intentional and malicious conduct, plaintiff suffered severe and extreme mental and emotional distress. Therefore, plaintiff is entitled to an award of punitive damages as against the individually named police officers. Plaintiff has suffered damages as set forth.

WHEREFORE, Plaintiff prays for relief as set forth

SIXTH CLAIM FOR RELIEF
 (California Civil Code § 51.7)
 (Against defendant OFFICERS)

32. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 31 of this complaint.

1 33. Plaintiff is informed and believes and thereon alleges that the conduct of defendant
2 OFFICERS, as described herein, was motivated by racial prejudice against plaintiff. By engaging
3 in such conduct, defendants violated plaintiff's rights under California Civil Code section 51.7 to be
4 free from violence or intimidation by threat of violence committed against them because of her race,
5 color, or ancestry.

6
7 34. Under the provisions of California Civil Code section 52, subdivision (b), defendants are
8 liable for each and every offense for each and every offense for exemplary damages, for twenty-five
9 thousand dollars (\$25,000) in addition thereto, and for the payment of plaintiff's attorney fees.

10
11 35. As a proximate result of defendants' wrongful conduct, plaintiff suffered damages as set
12 forth.

13
14 **WHEREFORE**, Plaintiff prays for relief as set forth.

15
16 **SEVENTH CLAIM FOR RELIEF**

17 (Negligence)
18 (Against defendants OFFICERS)

19
20 36. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 35 of this
21 complaint, except for any and all allegations of intentional, malicious, extreme, outrageous, wanton,
22 and oppressive conduct by defendants, and any and all allegations requesting punitive damages.

23
24 37. At all times herein mentioned, defendants were subject to a duty of care, to avoid causing
25 unnecessary physical harm and distress to citizens in the exercise of the police function. The conduct
26 of defendants, as set forth herein, did not comply with the standard of care to be exercised by
27 reasonable police officers, proximately causing plaintiff to suffer damages as set forth.

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WHEREFORE, Plaintiff prays for relief as set forth.

EIGHTH CLAIM FOR RELIEF
(Negligent Infliction of Emotional Distress)
(Against defendants OFFICERS)

38. Plaintiff reallege and incorporates by reference herein paragraphs 1 through 37 of this complaint, except for any and all allegation of intentional, malicious, extreme, outrageous, wanton, and oppressive conduct by defendants, and any and all allegations requesting punitive damages.

39. At all times herein mentioned, defendants were subject to a duty of care, to avoid causing unnecessary physical harm and distress to citizens. The conduct of defendants, as set forth herein, did not comply with the standard of care to be exercised by reasonable police officers, proximately causing plaintiff to suffer damages as set forth.

40. The conduct of defendant OFFICERS as set forth herein, was extreme and outrageous and beyond the scope of conduct which should be tolerated by citizens in a democratic and civilized society.

41. As a proximate result of defendants' conduct, plaintiff suffered severe and extreme mental and emotional distress. Plaintiff has suffered damages as set forth.

WHEREFORE, Plaintiff pray for relief as set forth.

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Complaint for Violation of Civil Rights -
Jury Trial Demanded

NINTH CLAIM FOR RELIEF
 (California Civil Code § 52.1)
 (Against defendants OFFICERS)

42. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 41 of this complaint.

43. The conduct of defendant OFFICERS as described herein violated California Civil Code section 52.1, in that they interfered with plaintiff's exercise and enjoyment of her civil rights, as enumerated above, through use of wrongful force and false arrest and imprisonment.

44. As a direct and proximate result of defendants' violation of Civil Code section 52.1 plaintiff suffered violation of her constitutional rights, and suffered damages as set forth.

45. Since the conduct of defendant officers occurred in the course and scope of their employment, defendant CITY is therefore liable to plaintiff pursuant to respondeat superior.

46. Plaintiff is entitled to an award of reasonable attorney's fees pursuant to Civil Code section 52.1.

WHEREFORE, Plaintiff prays for relief as set forth.

JURY DEMAND

47. Plaintiff hereby demands a jury trial in this action.

PRAYER

WHEREFORE, Plaintiff prays for relief as follows:

1. General damages in an amount no less than \$1,000,000;
2. Special damages in an amount no less than \$2,000,000;
3. Punitive damages in an amount no less than \$5,000,000;
4. Exemplary damages and an additional \$25,000 for each violation against each plaintiff of the Civil Code section 51.7, and reasonable attorney fees, pursuant to Civil Code section 52, subdivision (b);
5. Reasonable attorney's fees pursuant to 42 U.S.C. section 1988;
6. Costs of suit incurred herein; and,
7. Such other and further relief as the Court may deem just and proper.

Dated: 22 June 2008

LAW OFFICES OF ANTHONY BOSKOVICH

By: _____

Anthony Boskovich
Attorney for Plaintiff

CIVIL COVER SHEET

JS 44 (Rev. 12/07)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS

NANCY NAVA

DEFENDANTS

OFFICER MIKE SEADLER, et al.

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

Santa Clara

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Law Offices of Anthony Boskovich
28 N. First Street, 6th Floor
San Jose, CA 95113

(408) 286-5150

C08 03066 PVT

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- PTF DEF
Citizen of This State ☒ 1 ☒ 1
Citizen of Another State ☐ 2 ☐ 2
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3
Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4
Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 88 1	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	PRISONER PETITIONS	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 740 Railway Labor Act	FEDERAL TAX SUITS	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	CIVIL RIGHTS	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 441 Voting	IMMIGRATION		<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment			
	<input type="checkbox"/> 446 Amer. w/Disabilities - Other			
	<input checked="" type="checkbox"/> 440 Other Civil Rights			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. §1983; Title 28 U.S.C. §1331 and 1343

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$ 825,000** ☒ CHECK YES only if demanded in complaint: **JURY DEMAND:** ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

☐ SAN FRANCISCO/OAKLAND ☒ SAN JOSE

DATE

23 June 2008

SIGNATURE OF ATTORNEY OF RECORD

Anthony Boskovich